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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,773	11/14/2005	Anthony B. Fuller	5658/2	2436
24239	7590	06/13/2008		
MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			EXAMINER WATSON, ROBERT C	
			ART UNIT	PAPER NUMBER
			3723	
			MAIL DATE	DELIVERY MODE
			06/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,773

Applicant(s)

FULLER ET AL.

Examiner

Robert C. Watson

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
4a) Of the above claim(s) 21-39 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20, 40, 41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CDC)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Applicant's remarks concerning the restriction requirement have been given careful consideration. The examiner has previously demonstrated that each of the groups are distinct and that each group has its own unique search. Accordingly the restriction requirement is deemed proper. The examiner finds that to search all groups in a single application and perform all of the unique searches would present a serious burden to the Office. The group I subcombination will be examined in addition to the elected subcombination of group IV to assist applicant. The restriction requirement is hereby made FINAL.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Heinrich.

Lee shows an ear 42 that is capable of being actuated from the front and the side of the handle. To fashion this ear such that it extends through a slot or hole in the side of the handle would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Heinrich. Note that in Heinrich ear 40 extends through a hole or slot in the side of the housing and operation of this ear releases braking lever. To provide an ear on each side of the handle instead of only one side of the handle is no more than an obvious duplication of the ear structure taught by Heinrich. For example, one skilled in the art could obviously apply the teachings of

Heinrich, which suggests a side location for the ear through a side slot, by merely fixedly attaching a pin to the side of ear 42 in Lee and extending it through the side plate 12 by including a slot to receive the pin. To attach such a pin/slot additionally to the other side plate in Lee would be an obvious duplication of the pin/slot on the first side plate.

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Heinrich *supra* and further in view of De worth.

The cam that the ear actuates *supra* is an elliptical cam. However, trapezoidal cams are also well known and obvious for performing locking/unlocking functions with respect to mechanical elements. To make the cam *supra* in a trapezoidal rib shape would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of De worth. Note in De Worth the trapezoidal shaped cam is has ears 13 for actuation of the cam. One skilled in the art would be able to make the substitution even though the cams are very different shapes.

Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Heinrich and Drake.

Drake teaches that an ear 25 extending through a slot 44 engages the edges of the slot to limit the ear's movement in the slot. Drake also teaches that the force to actuate this ear is parallel to the first direction.

To use the edges of the slot *supra* to limit the ear's movement in the slot would have been obvious in view of the Drake disclosure. The directions specified in the claim are seen to be the same directions disclosed in the references.

To direction of the slot that the pin moves in is no more than an obvious matter of design choice dictated by the desired convenience desired absent a showing of criticality for this feature. The pin could obviously be attached to the ear 42 such that the pin moves in a slot substantially in the first direction in view of the teachings of Drake. One skilled in the art would have been motivated by convenience to choose such a direction.

Claims 21-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/12/07 and 4/30/08.

Applicant's remarks have been given careful consideration. It is apparent in applicant's remarks that applicant believes that some kind of bodily incorporation of the entire actuating/brake mechanism of Heinrich is being incorporated into the Lee reference. Certainly the rejection in the Office action of 7/20/07 never in any way proposed such a bodily incorporation. The rejection merely stated that a pin or the like can be fixed onto the side of ear 42 of Lee for the convenience of actuating ear 42 of Lee from the side. Applicant apparently was attempting to "fog" the examiner's simple obvious structural modification of Lee by introducing some gross complexity that did not take place with the simple obvious modification. Accordingly, applicant's discussion of what takes place within the housing 18 of Heinrich is totally irrelevant.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert C. Watson/

Primary Examiner, Art Unit 3723

rcw